

161 020
PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE



Applicant: Fukuzawa, Y. et al.

Serial No.: 09/486,865

Filed: March 2, 2000

For: COMPILING APPARATUS AND
COMPILING METHOD

Case No. 09792909-6482
(formerly KOIK-P9784)

Group Art Unit: 2122

Examiner: Unknown

Certificate of Mailing (37 CFR 1.8(a))

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to:

Mail Stop Petition
Office of Patent Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Date of Deposit: October 19, 2005

Paula M. Theismann 10-19-05
Paula M. Theismann Date

**PETITION TO WITHDRAW HOLDING OF ABANDONMENT
PURSUANT TO 37 CFR 1.181**

Mail Stop Petition
Office of Patent Legal Administration
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicants hereby petition to withdraw the holding of abandonment in connection with the above-captioned application. Applicants assert that there is no abandonment in fact and respectfully petitions for withdrawal of the abandonment pursuant to 37 C.F.R. 1.181 and MPEP 711.03(c). Applicants request the Examiner withdraw the holding of abandonment.

I. Statement of Facts

The U.S. Patent Office asserts that the application is abandoned because no reply was received to the Office Action mailed April 3, 2003.

Applicants contend, however, that the abandonment should be withdrawn as Applicants' did not received this Office Action.

On November 9, 2001 Attorney of Record, David R. Metzger of SONNENSCHN NATH & ROSENTHAL LLP, filed a Revocation of Power of Attorney transferring power of attorney from former counsel Limbach & Limbach (copy attached as Exhibit A).

On November 21, 2001 Applicants' filed a Status Inquiry on the above-identified patent application (copy attached as Exhibit B).

On February 4, 2002 Applicants' received a Status Letter Reply (copy attached as Exhibit C) advising of an expected date of action to be July 2002. It is noted on this document that the Requester is Attorney of Record.

On October 7, 2005, per Inventors' Assistance Center, it was determined that the Office Action dated April 3, 2003 had an electronic address for former counsel, Limbach & Limbach at 2001 Ferry Building, San Francisco, California 94111. Thus, the Office Action dated April 3, 2003 was mailed to former counsel and not to the Attorney of Record.

Former counsel's law firm ceased doing business in 2001.

II Docket Record

Attached is a Declaration of Laura Wells authenticating a copy of the docket record where the Office Action would have been docketed if it had been received and entered. This record is for the 3rd (third) day of May, June and July 2003, the due dates for response to a 1 (one), 2 (two) and 3 (three) month office action. The record is attached to the Declaration as Exhibits D - F.

Also attached is the Declaration of practitioner authenticating emails recovered with individual docketing records for May 3, June 3 and July 3, 2003. The enclosed docket records are attached as Exhibits G - I.

III. Search of File Jacket

The below signed practitioner searched the file jacket for this application and the contents therein and found no indication that the non-received office action was ever received. Exhibit J attached hereto is a printout of the List of Actions for this particular application from petitioner's electronic docketing system. There is no indication that the non-received office was ever received.

IV. Relief Requested

As the Applicants had not received the Office Action, the abandonment is in error and withdrawal of the abandonment in accordance with 37 CFR 1.181(a) and MPEP 711.03(c) is hereby requested. Acknowledgement of the active status of this application is respectfully requested.

V. Petition Fee

Applicants' contend the abandonment of the above-identified application is a result of the U.S. Patent Office, thus no fee is enclosed with this Petition.

The Commissioner is hereby authorized charge any additional fees required, as well as any patent application processing fees associated with this

communication for which full payment has not been tendered, to Deposit Account No. 19-3140. A duplicate copy of this letter is enclosed.

Respectfully submitted,

SONNENSCHN NATH & ROSENTHAL LLP

SONNENSCHN NATH & ROSENTHAL LLP
P.O. Box 061080
Wacker Drive Station
Sears Tower
Chicago, Illinois 60606-1080
Telephone: (312) 876-8000

By:


David R. Metzger
Registration No. 32,919